



OFFICE OF THE POLICE COMMISSIONER
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September 23, 2015

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Steven Hennessy**
Tax Registry No. 948526
Military and Extended Leave Desk
Disciplinary Case No. 2014-11562

Sergeant Emmanuel Kwo
Tax Registry No. 944715
121 Precinct
Disciplinary Case No. 2014-11564

The above named members of the service appeared before Deputy Commissioner Rosemarie Maldonado on April 6, 2015, and were charged with the following:

DISCIPLINARY CASE NO. 2014-11562

1. Said Police Officer Steven Hennessy, on or about January 14, 2013, at approximately 1800 hours, while assigned to the 122nd Precinct, and on duty in the vicinity of [REDACTED] Richmond County, abused his authority as a member of the New York City Police Department, in that he stopped Persons A, B and C without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 1

STOP AND FRISK

2. Said Police Officer Steven Hennessy, on or about January 14, 2013, at approximately 1800 hours, while assigned to the 122nd Precinct and on duty in the vicinity of [REDACTED] Richmond County, abused his authority as a member of the New York City Police Department, in that he frisked Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 2

STOP AND FRISK

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**POLICE OFFICER STEVEN HENNESSY
& SERGEANT EMMANUEL KWO**

**DISCIPLINARY CASE NO. 2014-11562
DISCIPLINARY CASE NO. 2014-11564**

3. Said Police Officer Steven Hennessy, on or about January 14, 2013, at approximately 1800 hours, while assigned to the 122nd Precinct and on duty in the vicinity of [REDACTED] Richmond County, wrongfully used force in that he hit the head of Person A, against a pole without police necessity.

P.G. 203-11

USE OF FORCE

DISCIPLINARY CASE NO. 2014-11564

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P.G. 212-11, Page 1, Paragraph 1

STOP AND FRISK

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P.G. 212-11, Page 1, Paragraph 2

STOP AND FRISK

In a Memorandum dated July 15, 2015, Deputy Commissioner Rosemarie Maldonado found Police Officer Steven Hennessy Not Guilty of Specification No. 1, and Guilty of Specification Nos. 2 and 3 in Disciplinary Case No. 2014-11562 and found Sergeant Emmanuel Kwo Not Guilty of Specification Nos. 1 and 2 in Disciplinary Case No. 2014-11564. Having read the Memorandum and analyzed the facts of this matter, I approve the findings for Sergeant Kwo, and I approve the findings, but disapprove the penalty for Police Officer Hennessy.

I have considered the totality of issues and circumstances in this matter and deem that a greater penalty is warranted for Police Officer Hennessy. Therefore, Police Officer Hennessy is to forfeit fifteen (15) vacation days, as a disciplinary penalty.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

July 15, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Steven Hennessy
Tax Registry No. 948526
Military and Extended Leave Desk
Disciplinary Case No. 2014-11562

Sergeant Emmanuel Kwo
Tax Registry No. 944715
121 Precinct
Disciplinary Case No. 2014-11564

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Website: <http://nyc.gov/nypd>

Disciplinary Case No. 2014-11564

1. Said Police Officer Emmanuel Kwo, on or about January 14, 2013, at approximately 1800 hours, while assigned to the 122nd Precinct, and on duty in the vicinity of [REDACTED] Richmond County, abused his authority as a member of the New York City Police Department, in that he stopped Persons A, B and C without sufficient legal authority. P.G. 212-11 Page 1, Paragraph 1 -STOP & FRISK
2. Said Police Officer Emmanuel Kwo, on or about January 14, 2013, at approximately 1800 hours, while assigned to the 122nd Precinct and on duty, in the vicinity of [REDACTED] Richmond County, abused his authority as a member of the New York City Police Department, in that he frisked Person B without sufficient legal authority. P.G. 212-11 Page 1, Paragraph 2 STOP & FRISK

The Civilian Complaint Review Board (CCRB) was represented by Suzanne O'Hare, Esq. Respondent Hennessy was represented by Stuart London, Esq. and Respondent Kwo was represented by Matthew Schieffer, Esq. Respondents through their counsel entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After evaluating the testimony and evidence presented at the hearing, and assessing the credibility of the hearsay statements and witnesses, this tribunal finds Respondent Hennessy Not Guilty of Disciplinary Case No. 2014-11562, Specification 1 and Guilty of Specifications 2 and 3. I find Respondent Kwo Not Guilty of Disciplinary Case No. 2014-11564, Specifications 1 and 2.

FINDINGS AND ANALYSIS

The following facts are not in dispute. On January 14, 2013, Respondents were assigned to the Special Operations Conditions team at the 120 Precinct. On that day their responsibility was to conduct uniform patrol, in an unmarked car, of areas affected by Hurricane Sandy. The Midland Beach neighborhood they patrolled suffered severe damage. Months after the hurricane, full electricity had not yet been restored, many streets were poorly lit and multiple vacant houses were scheduled for demolition. At the time, the Department was paying special attention to the prevention of trespassing, looting and burglary. A Hurricane Auto, consisting of an officer in an RMP with lights, established a strong police presence by continuously patrolling the neighborhood. (Tr. 121- 124; CCRB Ex. 4, p.3-5)

At approximately 1755 hours Hurricane Auto put out a non-emergency call for additional units to investigate people congregated in the backyard of a residence in the vicinity of [REDACTED] No descriptions were given.

Respondents drove to that location and observed three males exiting an area in which private backyards abut a paved alleyway. Respondents exited their vehicle, approached the males and told them to stand by the fence. The three males were Person A, Person B and Person C. Respondent Kwo recognized Person B. The males were not free to leave until Respondents ascertained the reason for their presence in the observed area. (Tr. 125-1 28, 1 54; CCRB Ex. 4, p. 5-6, 9; CCRB Exs. 1A-B)

All three were frisked. Persons B and C were "cooperative" and were issued a summons and released. Person A objected. Respondent Hennessy used force to turn

Person A

around, push him against the fence and handcuff him. At some point during this interaction, Person A's mother talked to Respondent Hennessy. Person A was taken to the precinct and released after being issued a summons for trespassing and a summons for disorderly conduct. The next day Person A sought medical attention for injuries to his face at Staten Island University Hospital. Person A filed a CCRB complaint and testified at the hearing. Neither Person B nor Person C filed CCRB complaints. (Tr. 52, 94, 140, 149, 166; CCRB Ex. 4, p. 4-6)

Disciplinary Case No. 2014-11562 Specifications 1-3
Disciplinary Case No. 2014-11564, Specification 1

At issue is whether Respondent Hennessy had legal authority to stop, frisk and use force against Person A. Not surprisingly, Respondent Hennessy's account differs significantly from [REDACTED]'s version of events. Below is a summary of the relevant testimony.

In January 2013, Person A was 17 years old and had lived in Midland Beach for about 15 years. At trial he testified that earlier that day he visited a friend who lived about two blocks away. Persons B and C accompanied him. As they walked back to Person A's home through a paved alleyway between [REDACTED] Street and [REDACTED] Avenue, they were stopped by the police. Respondents approached as they exited the alleyway and immediately told them to place their hands on an adjacent fence. Person A asked Respondent Hennessy why he was being stopped. Respondent Hennessy said he did not have to tell him anything. Person A complied with the order but told the officer that this was a violation of his constitutional rights. Respondent Hennessy replied, "Oh yea, you want to be a smart ass," placed him in handcuffs and patted down his shoulders, arms, waist

underarms, crotch area and legs. The handcuffs were removed after the frisk. (Tr. 18-20, 32-37, 81-83, 94; CCRB Exs. 1A-B)

Person A testified that during this interaction about six to eight officers arrived on the scene in marked cars. After the handcuffs were removed, he turned around and one of the officers asked if he had an older brother named [REDACTED] Person A did not recognize the officer but responded in the affirmative. The officer then said, "I'm going to call your older brother down here to kick your ass." Person A responded, "Nah, son, you don't know me." Respondent Hennessy reacted by grabbing him, spinning him around, "smash[ing]" him forcefully against the fence and handcuffing him a second time. He was then transported to the precinct where he was issued the two summonses. Person A testified that while in his cell he felt dizzy and asked an unknown police officer for an ambulance. He was not given medical attention. Upon release, he walked home and then to [REDACTED] Hospital where he was seen by a physician and treated for injuries to his face and head. Medical records show that he complained of dizziness, pain and swelling resulting from a "police assault." (Tr. 37-42, 48, 53-56, 83-85, 94-95; CCRB Exs. 1C-D, 2, 3)

At trial Respondent Hennessy testified that at about 1750 hours on January 14, 2013, he and Respondent Kwo proceeded to the area identified by Hurricane Auto. He described the neighborhood as "pitch black" with no street lights or supplemental NYPD lighting. For a few seconds they observed three males in the grassy area of a backyard adjacent to a paved alleyway. They were not carrying anything and Respondents did not observe any drug activity. Respondent Hennessy testified that he knew the house had been tagged by FEMA as uninhabitable and assumed that the three males were

trespassing on private property that was enclosed by a temporary construction fence. Respondents exited their unmarked vehicle, gestured and Respondent Hennessy said, "Come here, I need to talk to you. Don't go anywhere." According to Respondent Hennessy, they hesitated and "had a look in their eye like maybe I should go the other way" but he said, "Don't even think about it." Persons A, B and C walked over and stood in front of the fence facing the officers. (Tr. 124-131, 153-158; CCRB Ex. 4, p.

6)

Respondents told Persons A, B and C that they were not free to leave and asked for identification. Respondent Hennessy talked to Person A who immediately asked why he was being stopped. Respondent Hennessy attempted to start a "dialogue" to figure out why Person A was in the backyard, but got no response. Pers. A insisted that Respondents did not have a right to stop him. According to Respondent Hennessy, he explained to him again why were you back there?" but Person A had "nothing to say." Person A's mother exited her home and walked over. Respondent Hennessy told her that everything was "ok" and that he was only trying to obtain information. Person A's mother confirmed that he lived in an adjacent house with her. Based on this information, Respondent Hennessy inferred that Person A was not authorized to be in the yard where the three had first been spotted. Person A's mother stated that she had [REDACTED] and Respondent Hennessy suggested that she go back inside. (Tr.

132-137, 159-160; CCRB Ex. 4, p. 7, 23-25)

Respondent Hennessy stated that when he returned to the fence, Person A was upset that he had spoken to his mother. Person A produced a school identification card, but Respondent Hennessy did not recollect seeing a wallet or cell phone in his possession.

Respondent Hennessy recalled that Person A was only wearing a tight fitting Under Armor t-shirt and basketball shorts. Respondent Hennessy observed that Person A "kept placing his hands in his pockets and his thumbs were tucked into the front of his waistband." He told Person A repeatedly to take his hands out of his pockets. After the third time, and for his own "safety," Respondent Hennessy ordered Person A to turn around and face the fence. As he frisked Person A's waistband, Person A spun around to face him with his hands clenched in fists. Respondent Hennessy immediately gave him a push to the shoulder, spun him around, grabbed his wrists and handcuffed him. He recalls that a sergeant and driver pulled up to the scene in a marked car and that Person A's mother and others also came outside again. His sergeant told him to take Person A to the patrol car and transport him to the precinct because he was causing a scene in the neighborhood. Person A was issued a summons for disorderly conduct and another for trespass. The only injury he observed on Person A was a "very small red mark above his left eye." When he asked Person A whether he wanted medical attention, he responded, "fuck you." The precinct command log noted Person A's condition as "normal." (Tr. 137-147; 159-168, 171; CCRB Ex. 4, p. 17-18)

At issue is whether the stop was authorized. Whether Respondents were justified in elevating the level of this encounter to a stop turns on a thorough consideration of all relevant facts. A tribunal must be particularly careful to assess the factual circumstances known by the police officer at the time. *People v. Medina*, 107 A.D.2d 302 (2nd Dept. 1985) Here, the preponderance of the credible evidence supports a finding that this stop was justified and consistent with New York State law.

Police action beyond a request for information requires an elevated level of suspicion regarding criminal activity. Patrol Guide Procedure 212-11 addresses the

criteria for conducting a Level 3 stop: When a uniformed member of service reasonably suspects a person has "committed, is committing or is about to commit a felony or a Penal Law misdemeanor," that officer may "stop [the] person and request identification and explanation of conduct." *See also People v. DeBour*, 40 NY2d 210 (1976) Some of the factors officers may rely on to formulate a reasonable suspicion are the suspect's demeanor and character, the particular streets and areas involved, any information received from third parties, time of day or night and proximity to crime scenes. Patrol Guide Procedure 212-11 Additional Data

Given the totality of circumstances, Respondents were justified in conducting the initial stop. It is important to note that this stop took place within the context of heightened security challenges resulting from Hurricane Sandy. It is not in dispute that in January 2013 Midland Beach was, at best, a poorly lit disaster site plagued with uninhabitable houses that had become a target for criminal activity. In fact, a special patrol unit, Hurricane Auto, was instituted to maintain order within that vulnerable community.

Within this context, Respondents' decision to make this stop was consistent with the permissible factors described in the Patrol Guide. They had detailed knowledge about Midland Beach and the FEMA designation of the house at issue, they knew that the neighborhood was a target for trespassing, burglaries and looting, they received an alert from a fellow officer in the Hurricane Auto, it was dark outside and utilities had not been fully restored. In sum, Respondents had a good faith basis to suspect persons A, B and C of trespassing and reasonably exercised their official powers when they not only conducted this stop but issued the three men summonses for trespassing.

In making this finding I also note that even if this particular stop had involved some minor error of judgment, the preponderance of the evidence failed to prove the willful intent or negligence necessary to establish misconduct in a disciplinary proceeding. *See Ryan v. New York State Liquor Auth.*, 273 A.D. 576, 79 N.Y.S.2d 827, 832 (3d Dep't 1948). Accordingly, I find Respondent Hennessy Not Guilty of Disciplinary Case No. 2014-11562, Specification 1 and Respondent Kwo not guilty of Disciplinary Case No. 2014-11564, Specification 1.

Regrettably, the police encounter with Person A did not end with a justifiable stop. Respondent Hennessy is also charged with abusing his authority by frisking Person A and using force without legal justification. As described in detail above, Respondent Hennessey's account differs from Person A's version of events. Therefore, resolution of this matter rests in large part on a determination of witness credibility. In analyzing credibility, this tribunal may consider such factors as witness demeanor, consistency of witness testimony, supporting or corroborating evidence, witness motivation, bias or prejudice, and the degree to which a witness' account comports with common sense and human experience. *Department of Correction v. Hansley*, 169 A.D.2d 545, 564 N.Y.S.2d 398 (1st Dep't 1991)

There were several key factors which convinced this tribunal that Person A was telling the truth when he testified about the frisk and use of force. First, I found Person A to be a compelling witness who was surprisingly straightforward on the witness stand. Second, aspects of his testimony, including the exchange with an officer about his older brother, were so specific that they had the indicia of reliability. Third, he did not try to paint a particularly flattering picture of himself nor did he minimize the statements he

made that were disrespectful and reflected negatively on himself. Fourth, he produced [REDACTED] Hospital medical records, dated the following day, documenting that he was complaining of lightheadedness, pain and a headache and noting an "abrasion and swelling to his left forehead."¹ (CCRB Ex. 4) Fifth, during his testimony the indignation he felt as a result of this interaction with Respondent, and his subsequent injuries, was palpable and genuine. More importantly, I found no compelling motive for him to fabricate a lie accusing Respondent of serious misconduct. There was no proof that he was contemplating any type of civil claim against the officer nor was there evidence that they had a prior acrimonious relationship.

Although Person A's testimony was not impeccably reliable,² I credited his testimony that Respondent Hennessey reacted to Person A's assertion that his constitutional rights were being violated by saying, " Oh yea, you want to be a smart ass," placing him in handcuffs and patting him down. I also credited Person A 's testimony that Respondent Hennessey shoved his face into a fence post in reaction to Person A's disrespectful and cocky reference to an officer as "son." ³

In contrast, after closely observing Respondent Hennessey at trial, this tribunal is convinced that much of his testimony concerning the frisk and use of force was not worthy of belief. Specifically, I did not believe that Pers. A acted in a manner justifying a reasonable suspicion that the officers " or others [were] in danger of physical injury"

¹The medical records note that police " hit his head against a metal post." They also contain language that Person A was "thrown down" and "strangled" --claims he did not make at trial. Because these medical records were prepared by hospital staff and were not filled out by Person A personally it is difficult to ascertain whether the notations represent true inconsistencies.

² In making this finding I acknowledge that Person A has a prior conviction for felony assault. He also made inconsistent statements about where he met Person C on the night in question, the race of Respondent Hennessey's partner, whether his wallet and cell were taken from him and where Respondent Hennessey placed his hands when he used force. Given the totality of circumstances, however, I did not find these evidentiary issues to be dispositive of this case.

³ There was contradictory testimony concerning the number of officers who responded. It is undisputed, however, that at the very least two other officers, a sergeant and his driver, were present at the scene.

[Patrol Guide 212-112] by repeatedly refusing to keep his hands out of his pants. I also rejected Respondent Hennessy's testimony that physical force was justified because Person A spun around during the frisk and leaned toward him with clenched fists.

Respondent Hennessy has an obvious interest in the outcome of this case and thus a strong motive to falsely deny misconduct. This alone is generally insufficient to make a finding against Respondent. Here, however, much of Respondent Hennessy's account seemed self-serving and lacked the ring of truth. Of particular concern to this tribunal was Respondent Hennessy's retraction of his CCRB statement that all three men had been frisked. At his CCRB interview he stated, "[E]veryone was frisked." In contrast, at trial he changed his account and stated that "I did not learn they were frisked. I assume they were." (Tr. 165-166) Respondent Hennessy's insistence that he did not hear or see virtually any part of his partner's interactions with Persons B and C seemed calculated and evasive. Moreover, minimizing Person A's injuries by describing them as "one small red mark" on his face was simply not credible. Not only was this description contradicted by the medical records maintained by [REDACTED] Hospital, it was also undermined by his own statement that he offered Person A the option of medical assistance. In short, parts of Respondent Hennessy's testimony seemed to be carefully crafted to bolster the defense.

I also note that Respondent Hennessy's demeanor on the witness stand appeared insincere. For example, at one point during cross-examination he became hostile and sarcastic. When asked if being pushed against a fence could cause injury, he answered, "I don't know. I'm not a crime scene investigator." (Tr. 169) While the question might

have been difficult to answer, the tone used to respond belied any attempt to convince this tribunal that he was being truthful.⁴

I was particularly troubled by the evidence that Respondent Hennessey targeted Person A for force because he balked at being stopped and was insolent. Respondents both stated, and this tribunal agrees, that their legitimate goal in stopping the three males was to ascertain their reason for being in the yard of a boarded up house. It is undisputed, however, that none of the three males gave them a satisfactory reason for their presence in that area and all three were issued trespass summonses. (CCRB Ex. 4, p 12) What I believe truly distinguished Person A from the other two males is that he protested the stop and spoke with disrespect when he called an officer "son." In contrast, Persons B and C remained "cooperative and quiet." (CCRB Ex. 4, p 12) Although disrespect toward the police cannot be condoned, Person A's protests were insufficient to raise the level of suspicion needed to escalate this police encounter to a frisk and subsequent use of force.⁵

Improper police action is punishable only if an officer acted "with knowledge that he was acting improperly, acted without concern for the propriety of his actions, or acted without due and reasonable care that his actions be proper." *McGinige v. Town of*

⁴ Much was made at trial about whether the fence in the area was a temporary construction fence or the permanent chain link fence depicted in CCRB Exs 1C, 1D. This evidence, however, is not dispositive of this case. It is uncontested that there was a fence up at the time of the incident and that Person A was pushed against it. I was unconvinced by the conclusory argument that Person A could not have sustained his injuries had he been pushed against a temporary fence.

⁵ I acknowledge that Respondent Kwo's CCRB statement supports aspects of Respondent Hennessey's account. However, although Respondent Kwo attended the trial, he did not take the stand in his own defense and was not called to testify by the CCRB or Respondent Hennessey. Thus, this tribunal was unable to assess Respondent Kwo's demeanor. The availability of a hearsay declarant to testify, as well as their interest in the outcome of the case, are two important factors used to assess hearsay evidence. See *Ayala v. Ward*, *Culltown v. Bailor*, 626 F.2d 145 (9th Cir. 1980), *cert. den.*, 452 U.S. 906, 101 S.Ct. 3033 (1981); *Richardson v. Perales*, 402 U.S. 389, 91 S.Ct. 1420 (1971). Inasmuch as Respondent Kwo was available to testify, and has a very strong interest in the outcome of this case, this tribunal could not accord his hearsay statements the probative value needed to be used as corroboration of Respondent Hennessey's version of events.

Greenburgh, 48 N.Y.2d 949, 951, 425 N.Y.S.2d 61, 62 (1979); *Police Department v. Dowd*, OATH Index No. 1189/90 (Oct. 5, 1990), *aff'd in part and rev'd in part on other grounds*, Comm'r Decision (Nov. 20, 1990). Here, the preponderance of credible evidence shows that Respondent Hennessy acted in bad faith when he frisked Person A and gratuitously pushed him against a fence causing him to be injured in reaction to Person A protesting the stop and addressing an officer with disrespect. Accordingly, I find that the preponderance of the credible evidence supports a finding that Respondent Hennessy engaged in the misconduct set forth in Disciplinary Case No. 2014-11562, Specifications 2 and 3. *See Disciplinary Case No. 2013-9623* (Signed March 4, 2015) (Nine-year police officer had the requisite suspicion to stop an individual but lacked the requisite suspicion to frisk) *See also Disciplinary Case No. 2013-9972* (Signed March 27, 2015) (Twenty-three year police officer found Guilty for gratuitously slapping a complaint individual who was being placed under arrest) *See also, Disciplinary Case No. 2010-52* (Signed September 17, 2012) (Six-year police officer found Guilty for striking a suspect after the suspect called him a "dickhead").

Disciplinary Case No. 2014-11564. Specification 2

Respondent Kwo is also charged with having frisked Persons B and C without legal justification. The evidence on this charge is limited. Persons B and C did not file a CCRB complaint and were not interviewed by the CCRB as witnesses. In addition, neither Respondent Hennessy nor Person A provided much testimony about the interaction between Persons B and C and Respondent Kwo. Furthermore, this is an unusual case in that, although present, Respondent Kwo was not called as a witness at the disciplinary hearing. Instead, CCRB, which has the burden of proof in this case, chose to rely on

Respondent Kwo's hearsay declaration recorded by the CCRB in June 2013. (CCRB Ex. 4)

As noted above, Patrol Guide Procedure 212-11 states that: When a uniformed member of the service reasonably suspects a person has "committed, is committing or is about to commit a felony or a Penal Law misdemeanor," that officer may frisk if they "reasonably suspect [they] or others are in danger of physical injury."

At the June 18, 2013, CCRB interview, Respondent Kwo stated that he frisked Person B and Person C's pant pockets because he saw bulges in those areas which he believed could be "some sort of weapon." He also emphasized that the disaster zone was dark which raised additional security concerns. (CCRB Ex. 4, pp. 6, 13-16) Given the circumstances, Respondent Kwo articulated an actual and specific danger to his own safety. *See Disciplinary Case No. 2011-4767* (Signed February 26, 2015) (seven-year police officer is found not guilty of an unlawful frisk because he was able to articulate a credible and reasonable explanation for believing that complainant posed a threat to his safety) *See also Disciplinary Case Nos. 2013-9651 & 2013-9652* (Signed February 26, 2015) (eleven-year sergeant and nine-year police officer found not guilty of frisking a suspect because the underlying stop was for the violent crime of burglary and Respondents wanted to dispel concerns of personal safety and danger.) Inasmuch as this hearsay declaration was relied upon by the CCRB to prove this charge, and the record presents limited evidence to counter the reasons given, I find that the CCRB did not satisfy its burden of proof and that Respondent Kwo is Not Guilty of the misconduct charged in Disciplinary Case No. 2014-11564, Specification 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent Hennessy was appointed to the Department on January 14, 2010 and Respondent Kwo was appointed to the Department on July 9, 2007. Information from their personnel record that was considered in making this penalty recommendation is contained in the attached memoranda.

CCRB recommends the forfeiture of 15 vacation days as the appropriate penalty for Respondent Hennessy's misconduct alleged in the three Specifications. As noted above, Respondent Hennessy has been found Not Guilty of Specification No. 1, and Guilty of Specifications 2 and 3. Accordingly, after evaluating Respondent's testimony and demeanor at trial, his CCRB interview, and his prior disciplinary record, I recommend the forfeiture of two (2) vacation days for his gratuitous frisk of Person A. See *Disciplinary Case Nos. 2013-9621 & 2013-9622* (Signed March 11, 2015) (Nine-year police officer forfeited two vacation days for frisking complainant without sufficient legal authority) Additionally, I recommend the forfeiture of eleven (11) vacation days for wrongfully using force against Person A and causing injury to his face. See *Disciplinary Case No. 2013-10851* (Signed February 27, 2015) (eight-year police officer forfeited 10 vacation days for striking a suspect in the head with an expandable baton without police necessity) See also *Disciplinary Case No. 2012-6779* (Signed October 13, 2014) (thirteen-year police officer negotiated a penalty of 15 vacation days for pushing a suspect without police necessity)

Respectfully submitted,

Rosemarie Maldonado

Rosemarie Maldonado
Deputy Commissioner of Trials

DISAPPROVED

SEP 23 2015

William J. Bratton
POLICE COMMISSIONER

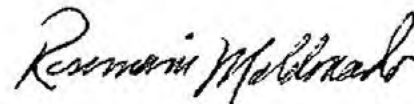
POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER STEVEN HENNESSY
TAX REGISTRY NO. 948526
DISCIPLINARY CASE NO. 2014-11562

Respondent was appointed to the Department on January 11, 2010. His last three evaluations were as follows: he received an overall rating of 4.5 "Highly/Extremely Competent" in 2012 and a 3.0 "Competent" during his probationary 22-month and 16-month evaluations. He has two medals for Excellent Police Duty and one medal for Meritorious Police Duty. [REDACTED]

Respondent is presently on modified duty status as a result of a pending disciplinary case involving the possession and use of anabolic steroids. For this alleged misconduct, he was suspended from duty on April 3, 2013. He remained on suspended with pay status until March of 2015, before being placed on modified assignment. He has no other prior formal disciplinary record.

For your consideration.



Rosemarie Maldonado
Deputy Commissioner Trials